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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To assist States in improving guardianship oversight and data collection.

IN THE HOUSE OF REPRESENTATIVES

Mr. SOTO introduced the following bill; which was referred to the Committee
on _____

A BILL

To assist States in improving guardianship oversight and
data collection.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guardianship Account-
5 ability Act of 2019”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) An estimated 1,300,000 adults and approxi-
2 mately \$50,000,000,000 in assets are under the care
3 of guardians in the United States.

4 (2) Most guardians are selfless, dedicated indi-
5 viduals who play an important role in safeguarding
6 individuals in need of support. However, unscrupu-
7 lous guardians acting with little oversight have used
8 guardianship proceedings to obtain control of indi-
9 viduals in need of support.

10 (3) Once a guardianship is imposed, there are
11 often few safeguards in place to protect against indi-
12 viduals who choose to abuse the system and few
13 states are able to report accurate or detailed guard-
14 ianship data.

15 (4) A full guardianship order may remove more
16 rights than necessary and may not be the best
17 means of providing support and protection to an in-
18 dividual. If individuals subject to guardianship re-
19 gain capacity, all or some rights should be quickly
20 and efficiently restored.

21 (5) States should encourage courts to use alter-
22 natives to guardianship through State statutes, in-
23 cluding the adoption of the Uniform Guardianship,
24 Conservatorship, and Other Protective Arrange-
25 ments Act, to ensure better protections and control

1 for individuals being considered for guardianship
2 and those pursuing a restoration of their rights.

3 (6) A national resource center on guardianship
4 is needed to collect and publish information for the
5 benefit of courts, policy makers, individuals subject
6 to guardianship, guardians, community organiza-
7 tions, and other stakeholders.

8 (b) PURPOSES.—The purposes of this Act are to help
9 States improve guardianship oversight and data collection
10 by—

11 (1) designating a National Online Resource
12 Center on Guardianship;

13 (2) authorize grants for the purpose of devel-
14 oping State Guardianship Databases; and

15 (3) establishing procedures for sharing back-
16 ground check information related to appointed
17 guardians with other jurisdictions.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) ELDER JUSTICE COORDINATING COUNCIL.—
21 The term “Elder Justice Coordinating Council”
22 means the Council established under section 2021 of
23 the Social Security Act (42 U.S.C. 1397k).

24 (2) GUARDIANSHIP.—The term “guardianship”
25 means a legal relationship established by a court

1 when a person is determined to lack the ability to
2 meet essential requirements for physical health, safe-
3 ty, or self-care because the person is unable to re-
4 ceive and evaluate information or make or commu-
5 nicate decisions about their person or property, even
6 with appropriate supportive services, technological
7 assistance, supported decision making, or other less
8 restrictive alternatives.

9 (3) INDIVIDUALS SUBJECT TO GUARDIAN-
10 SHIP.—The term “individuals subject to guardian-
11 ship” means any individual 18 years or older placed
12 under a guardianship.

13 **SEC. 4. NATIONAL ONLINE RESOURCE CENTER ON GUARD-**
14 **IANSHIP.**

15 (a) DESIGNATION.—The Elder Justice Coordinating
16 Council shall establish a National Online Resource Center
17 on Guardianship (referred to in this section as the “Cen-
18 ter”).

19 (b) THE NATIONAL ONLINE RESOURCE CENTER ON
20 GUARDIANSHIP.—The National Online Resource Center
21 shall—

22 (1) collect and publish information for use by
23 individuals subject to guardianship, guardians,
24 courts, State and local governments, and community
25 organizations;

1 (2) post model standards, best practices, and
2 guidelines for the appointment and regulation of
3 guardianship cases developed under section 505 of
4 the Elder Abuse Prevention and Prosecution Act (34
5 U.S.C. 21752);

6 (3) promote the use of less restrictive alter-
7 natives to guardianship and the restoration of rights
8 of individuals subject to guardianship;

9 (4) annually compile and publish a summary of
10 recently conducted research on guardianship sys-
11 tems, including information from agencies across the
12 government;

13 (5) collect data from States regarding—

14 (A) the number of individuals subject to
15 guardianship;

16 (B) the duration of guardianships;

17 (C) whether the authority granted to
18 guardians is classified as—

19 (i) full guardianship;

20 (ii) limited guardianship;

21 (iii) emergency or temporary guard-
22 ianship; or

23 (iv) a less restrictive alternative to
24 guardianship;

1 (D) the amount of financial assets under
2 guardianship; and

3 (E) whether an appointed guardian is clas-
4 sified as a—

5 (i) family or other nonprofessional
6 guardian;

7 (ii) private or professional guardian or
8 guardianship agencies; or

9 (iii) public guardian;

10 (6) maintain a public, national database on
11 State laws regarding guardianship and less restric-
12 tive alternatives to guardianship, including require-
13 ments for the—

14 (A) use of least restrictive alternative;

15 (B) regular filing and documentation by
16 appointed guardians;

17 (C) oversight of appointed guardians;

18 (D) restoration of rights of individuals
19 subject to guardianship; and

20 (E) oversight of potential conflicts of inter-
21 est among individuals and organizations in-
22 volved in guardianship applications, appoint-
23 ments, and oversight;

1 (7) identify issues relating to guardianship and
2 provide and publish annual recommendations to
3 States and Congress to address identified problems;

4 (8) collect and analyze best practices relating to
5 guardianship, and publish a report of such best
6 practices, including model guidelines and standards
7 for—

8 (A) ensuring appropriate representation
9 and protection of legal rights for individuals
10 subject to guardianship and guardianship pro-
11 ceedings;

12 (B) conducting background check inves-
13 tigations on prospective and appointed guard-
14 ians;

15 (C) promoting the use of less restrictive al-
16 ternatives to guardianship;

17 (D) obtaining restoration of all or some
18 rights;

19 (E) implementing oversight programs; and

20 (F) responding to abuse, neglect, and ex-
21 ploitation;

22 (9) compile and publish training materials for
23 court appointed guardians related to duties and obli-
24 gations, as well as ways in which to effectively sup-
25 port individuals subject to guardianship;

1 (10) facilitate State collection of guardianship
2 information and the sharing of such information
3 among States; and

4 (11) carry out other activities, as determined by
5 the Elder Justice Coordinating Council.

6 (c) CONSIDERATION.—In developing the Center, the
7 Elder Justice Coordinating Council shall take into account
8 diverse stakeholder views, including those of individuals
9 and organizations representing people with disabilities,
10 older adults, family members, court-stakeholder partner-
11 ships and others, as well as available literature developed
12 through academic or other research institutions.

13 **SEC. 5. STATE GUARDIANSHIP DATABASES.**

14 Section 2042(c) of the Social Security Act (42 U.S.C.
15 1397m–1(c)) is amended—

16 (1) in paragraph (1), by striking “paragraph
17 (2)(E)” and inserting “subparagraphs (E), (F), (G),
18 and (H) of paragraph (2)”;

19 (2) in paragraph (2)—

20 (A) in the matter preceding subparagraph

21 (A)—

22 (i) by striking “Funds” and inserting
23 “Subject to paragraph (7), funds”; and

1 (ii) by striking “subparagraph (E)”
2 and inserting “subparagraphs (E), (F),
3 (G), and (H)”;
4 (B) in subparagraph (E), by striking “or”
5 at the end;
6 (C) by redesignating subparagraph (F) as
7 subparagraph (I); and
8 (D) by inserting after subparagraph (E)
9 the following new paragraphs:
10 “(F) methods to assess State guardianship
11 statistics such as the creation of State data-
12 bases to collect information about the number
13 and characteristics of guardianship arrange-
14 ments, guardians, and individuals subject to
15 guardianship;
16 “(G) the use of trained court visitors to
17 improve court administration of guardianship
18 arrangements, including the appointment and
19 oversight of guardians;
20 “(H) methods for collecting, storing, and
21 making available to the appropriate individuals,
22 organizations, and entities information on pro-
23 spective, current, and previously appointed
24 guardians, which may include—

1 “(i) contact and identifying informa-
2 tion;

3 “(ii) information relating to back-
4 ground check investigations;

5 “(iii) court decisions regarding peti-
6 tions for appointment as a guardian, in-
7 cluding the rationale for such decisions;
8 and

9 “(iv) information relating to the cause
10 for removal of the guardian or termination
11 of the guardianship arrangement; or”;

12 (3) in paragraph (4), by striking “paragraph
13 (2)(E)” and inserting “subparagraphs (E), (F), (G),
14 and (H) of paragraph (2)”;

15 (4) in paragraph (5), by striking “paragraph
16 (2)(E)” each place it appears and inserting “sub-
17 paragraphs (E), (F), (G), and (H) of paragraph
18 (2)”;

19 (5) by adding at the end the following new
20 paragraph:

21 “(7) ENSURING DEMONSTRATION PROGRAM
22 FUNDING FOR THE HIGHEST COURTS OF STATES.—
23 The Secretary shall ensure that at least 5 percent of
24 the total of any funds made available to carry out
25 this subsection in a fiscal year (beginning with fiscal

1 year 2020) is awarded under grants to the highest
2 courts of States for purposes of conducting dem-
3 onstration programs described in subparagraphs
4 (E), (F), (G), and (H) of paragraph (2).”.